Case 4:06-cv-00347

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

TEXAS A&M UNIVERSITY,

Plaintiff,

S
Civil Action No. 4:06-CV-00347

The Honorable Judge Ewing Werlein, Jr.

SEATTLE SEAHAWKS, INC.,

SEATTLE PROFESSIONAL

FOOTBALL, INC., and
FOOTBALL NORTHWEST, LLC,

Defendants.

PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO TRANSFER VENUE

Plaintiff, Texas A&M University ("Plaintiff" or "Texas A&M"), opposes the Motion of the Defendant, Football Northwest, LLC, (hereinafter collectively referred to as "Defendant") to transfer the venue of this matter from the Southern District of Texas to the Western District of Washington. This case relates to the famous "12th MAN" mark of Texas A&M, and involves causes of action under federal law, and under Texas state law. The fame and notoriety of the mark in Texas and elsewhere is a fundamental issue of this case for which the majority of the witnesses and documentary evidence are in Texas. As is amply demonstrated in the accompanying Memorandum, the relevant facts and law demonstrate that the Southern District of Texas is the proper venue for the present litigation. Indeed, a transfer would be far more burdensome on Texas A&M University, a state funded university, than retaining the case in the Southern District will be on Seattle, a for-profit organization that has disregarded Plaintiff's rights and adopted Plaintiff's marks to improve its fan participation (and thereby increase its highly profitable professional football activities).

Under controlling law, a plaintiff's choice of forum is to be given great deference. In the present case, Plaintiff is a state funded university with its principal place of business in this District; the vast majority of Plaintiff's prospective witnesses reside in Texas, including non-party witnesses; virtually all of Plaintiff's documents relating to this matter are in Texas; and the injury caused by Defendant's actions are most felt in Texas. Additionally, there is tremendous local interest in resolving this dispute in Texas as it involves the trademark rights of one of Texas' oldest, most prominent and well-known universities. These factors, alone, suggest this matter should be retained in the Southern District. When these factors are combined with the deference that is due to a plaintiff's choice of forum, it becomes clear that the requested transfer would actually be improper, and, potentially, an abuse of discretion.

Defendants, on the other hand, collectively comprise a large company, with contacts around the country. Litigation of this matter in this Court will be neither an undue inconvenience nor an undue burden on Defendants. Indeed, the requested transfer would not serve the overall "convenience of the parties." Rather, the transfer would only serve to shift the expense and inconvenience from the Defendants to the Plaintiff—contrary to the deference to be accorded to Plaintiff's choice of forum. The transfer should be denied.

Finally, the efficient administration of justice not only fails to warrant transfer, but weighs heavily in favor of maintaining this action in this judicial district.

For each of these reasons, and as more fully expounded upon in the accompanying Memorandum and supporting declarations, Plaintiff Texas A&M University requests that Defendant's Motion to Transfer Venue be denied.

day of April, 2006. This is the

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF TEXAS A&M UNIVERSITY

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the foregoing Plaintiff's Response to Defendant's Motion to Transfer Venue has been served on the following counsel of record indicated below via facsimile, and/or prepaid first class mail, and/or electronic mail and/or in accordance with the Electronic Court Filing system guidelines on this the 2/5tday of April, 2006:

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